

Senate Bill No. 1303

CHAPTER 290

An act to amend Sections 2086 and 2087 of the Fish and Game Code, relating to protected species.

[Approved by Governor September 23, 2010. Filed with
Secretary of State September 24, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1303, Wolk. Protected species: accidental take: agricultural activities.

The California Endangered Species Act, until January 1, 2011, exempts from its provisions the accidental take of candidate, threatened, or endangered species resulting from acts that occur on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities. The act requires the department, in cooperation with the Department of Food and Agriculture and other specified entities, to adopt regulations that authorize locally designed voluntary programs for routine and ongoing agricultural activities on farms or ranches that encourage habitat for candidate, threatened, and endangered species, and wildlife generally. The act authorizes specified entities to propose those programs to the department.

This bill would extend that repeal date to January 1, 2014. The bill would authorize the department to approve applications submitted by nonprofit organizations to initiate and undertake public education and outreach activities that promote the achievement of the objectives of the act. The bill would require a participating organization to file an annual report with the department with specified information.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) is a statute of general applicability and all Californians should be aware of the importance of protecting rare wildlife species and their habitat in this state.

(b) Policies to implement the California Endangered Species Act should recognize the importance of providing incentives to private landowners to conduct voluntary conservation activities on their lands for the benefit of California's candidate, threatened, and endangered species. Because voluntary conservation projects are undertaken by landowners to promote wildlife and habitat conservation above and beyond what is required by law, it is important to ensure that the permitting processes for these projects are

efficient and timely in order to maximize landowner participation and minimize obstacles to completing these projects.

(c) The Legislature has created both a voluntary habitat management and a voluntary safe harbor agreement program to encourage landowners to manage their lands to benefit endangered, threatened, or candidate species, while ensuring that landowners are not subject to additional regulatory restrictions as a result of these conservation efforts.

(d) It is the intent of the Legislature to authorize nonprofit organizations, especially nonprofit agricultural organizations, to develop educational materials for the public and to conduct public outreach to California's farming and ranching communities that will inform those stakeholders of the following: the importance of the California Endangered Species Act; the existing voluntary habitat conservation programs; the economic incentives available to landowners who undertake voluntary habitat conservation activities; and the existence within the California Endangered Species Act of statutory protections that, among other things, provide landowners whose property is adjacent to those who are participating in voluntary conservation projects with specified relief from additional regulatory restrictions.

SEC. 2. Section 2086 of the Fish and Game Code is amended to read:

2086. (a) The department, in cooperation with the Department of Food and Agriculture, agricultural commissioners, extension agents, farmers, ranchers, and other agricultural experts, shall adopt regulations that authorize locally designed voluntary programs for routine and ongoing agricultural activities on farms or ranches that encourage habitat for candidate, threatened, and endangered species, and wildlife generally. Agricultural commissioners, extension agents, farmers, ranchers, or other agricultural experts, in cooperation with conservation groups, may propose those programs to the department. The department shall propose regulations for those programs not later than July 1, 1998.

(b) Programs authorized under subdivision (a) shall do all of the following:

(1) Include management practices that will, to the maximum extent practicable, avoid and minimize take of candidate, endangered, and threatened species, while encouraging the enhancement of habitat.

(2) Be supported by the best available scientific information for both agricultural and conservation practices.

(3) Be consistent with the policies and goals of this chapter.

(4) Be designed to provide sufficient flexibility to maximize participation and to gain the maximum wildlife benefits without compromising the economics of agricultural operations.

(5) Include terms and conditions to allow farmers or ranchers to cease participation in a program without penalty. The terms and conditions shall include reasonable measures to minimize take during withdrawal from the program.

(c) Any taking of candidate, threatened, or endangered species incidental to routine and ongoing agricultural activities that occurs while the

management practices specified by paragraph (1) of subdivision (b) are followed, is not prohibited by this chapter.

(d) (1) The department shall automatically renew the authorization for these voluntary programs every five years, unless the Legislature amends or repeals this section in which case the program shall be revised to conform to this section.

(2) Commencing in 2000, and every five years thereafter, the department shall report to the appropriate policy committees of the Legislature regarding the effect of the programs. The department shall consult with the Department of Food and Agriculture in evaluating the programs and preparing the report. The report shall address factors such as the temporary and permanent acreage benefiting from the programs, include an estimate of the amount of land upon which routine and ongoing agricultural activities are conducted, provide examples of farmer and rancher cooperation, and include recommendations to improve the voluntary participation by farmers and ranchers.

(e) If the authorization for these programs is not renewed or is modified under subdivision (d), persons participating in the program shall be allowed to cease participating in the program in accordance with the terms and conditions specified in paragraph (5) of subdivision (b), without penalty.

(f) (1) The department may approve an application submitted by an agricultural-based nonprofit organization or other entity registered as a California nonprofit organization to initiate and undertake public education and outreach activities that promote the achievement of the objectives of this chapter. An application submitted pursuant to this subdivision shall include the following:

- (A) The name and contact information of the participating organization.
- (B) A brief description of the planned outreach activities.
- (C) An end date for the outreach activities.

(2) The department may require a participating organization to submit, for approval by the department, educational materials and outreach materials that are disseminated to the public in furtherance of this subdivision.

(3) A participating organization shall file an annual report with the department before the end of each calendar year during the time period specified in the application. The report shall include, but is not limited to, the following:

(A) Complete information on the activities conducted by the participating organization in the prior year, including a description of all means of communicating to the public and agricultural community, including personal visits, electronic communications, organized meetings, or other means.

(B) A compilation of responses from the public and members of the agricultural community that will assist the participating organization and the department to modify or improve public education and outreach activities on an ongoing basis.

(C) An assessment of the existing knowledge within the agricultural community of programs and prohibitions under this chapter and a review of outreach activities that could be used to adapt and improve future outreach efforts.

(D) Information on a farm or ranch that has expressed interest in participating in a voluntary program pursuant to this section or the safe harbor agreement program contained in Article 3.7 (commencing with Section 2089.2). This provision does not require the annual report to include the identification to the department of an individual, farm, or ranch.

SEC. 3. Section 2087 of the Fish and Game Code is amended to read:

2087. (a) Accidental take of candidate, threatened, or endangered species resulting from acts that occur on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited by this chapter.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.